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CAUSE NO. 1:19-CV-1255-LY

US CAPITAL PARTNERS, INC.,
JEFFREY SWEENEY, CHARLES
TOWLE, AND PATRICK STEELE,
DEFENDANTS.

The magistrate judge filed a report and recommendation on May 12, 2020 (Doc. #27), recommending that because all of the claims Plaintiffs raise in this action are subject to the parties' arbitration agreements, this court should grant the motion to compel arbitration and dismiss the case with prejudice. In support of the recommendation, the magistrate judge found that plaintiffs failed to sustain their burden to demonstrate that the arbitration agreements are invalid and found that all of the parties' claims are subject to the parties' arbitration agreements.

A party may serve and file specific written objections to the proposed findings and recommendations of a magistrate judge within fourteen days after being served with a copy of the report and recommendation and thereby secure *de novo* review of the district court. *See* 28 U.S.C. § 636(b); Fed. R. Civ. P. 72(b). A party's failure to timely file written objections to the proposed findings, conclusions, and recommendation in a report and recommendation bars that party, except upon grounds of plain error, from attacking on appeal the unobjected-to proposed factual findings and legal conclusions accepted by the district court. *See Douglass v. United Services Auto Ass'n*, 79 F.3d 1415 (5th Cir. 1996) (en banc).

The record reflects that the parties received the report and recommendation on May 13, 2020, and objections, if any, were due to be filed on or before May 27, 2020. Plaintiffs filed objections on May 26, 2020 (Doc. #28) and Defendants filed a response to Plaintiffs' objections on June 9, 2020 (Doc. #29). In light of the objections, the court has undertaken a *de novo* review of the entire case file.

Plaintiffs object to the magistrate judge's findings on eight alleged errors, asserting that the magistrate judge misinterpreted the law and misapplied the burden of proof onto the Plaintiffs rather than the Defendants. In response, Defendants argue that the magistrate judge correctly interpreted the law and appropriately applied the burden of proof. The court agrees with Defendants and will overrule the Plaintiffs' objections. The court concludes that the report and recommendation shall be accepted and adopted for substantially the reasons stated therein.

IT IS THEREFORE ORDERED that Plaintiffs Noble Capital Group, L.L.C. and Noble Capital Management Fund, L.L.C.'s Objections to the Magistrate Judge's Report and Recommendations (Doc. #28) are **OVERRULED**.

IT IS FURTHER ORDERED that for substantially the reasons stated therein the Report and Recommendation of the United States Magistrate Judge (Doc. #27) is **ACCEPTED AND ADOPTED**.

IT IS FURTHER ORDERED that Defendants US Capital Partners, Inc., Jeffrey Sweeney, Charles Towle, and Patrick Steele's Motion to Compel Arbitration and Stay Proceedings, or Alternatively Motion to Dismiss (Doc. #17) is **GRANTED to the extent** that (1) the parties shall arbitrate all claims raised in this action; and (2) the action is **DISMISSED WITH PREJUDICE**. In all other respects the motion is **DENIED**.

A Final Judgment shall be filed separately.

SIGNED this 31st day of July, 2020.



LEE YEAKEL
UNITED STATES DISTRICT JUDGE